

REMARKS

Applicant elects with traverse Species IV directed to a multi-ply bag comprising uncoated paper as set forth in claims 4-8. Applicant notes that the Examiner has not made a Restriction Requirement, but has set forth a species election based upon claims but not figures. Applicant respectfully submits that the Examiner has not established a *prima facie* case that the species are independent or distinct.

For instance, in Species I, the Examiner cites a distinction of being a “tubular structure”. However, Applicant respectfully submits that within the bag art, all such bags are considered tubular structures having two or more layers arranged in a tube-like orientation. Applicant is unaware of any classification scheme or status within the art in which “tubular” is a basis for separate classification or a separate status within the art. Further, with respect to Species II, there is no subject matter identified that provides a basis of a separate species. The term “improvement” is not one used to separate on the basis of classification or status and therefore should not be a basis of rendering claim 2 as a separate species.

With respect to Species III and IV, it is noted that the basis of distinction for claim 3 is an extrusion coating although claim 4 also has a coating on the fourth ply layer. The coating layer is set forth as a coating weight consistent with use as an extruded layer. In summary, Applicant requests reconsideration of the species requirement to the extent that the distinguishing features of “tubular”, “improvement”, and “extrusion coating” do not form a recognized basis of being independent or distinctive within the art.

Applicant notes the requirement under 35 USC §121 to elect a single disclosed species for prosecution and hereby elects Species IV consisting of claims 4 through 8. Applicant submits that claim 1 is a generic claim.

Applicant respectfully submits that all pending claims are presently in condition for examination. The Examiner is invited to contact the undersigned to discuss any minor issue which remains following consideration of Applicant’s response to the Election Requirement.

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Please charge any additional fees required to Deposit Account No. 50-3172.

Respectfully submitted,

J. BENNETT MULLINAX, LLC

A handwritten signature in black ink, appearing to read "J. B. Mullinax", written in a cursive style.

J. Bennett Mullinax
Reg. No. 36,221